



PATENT
540541-2013.1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RECEIVED
JAN 08 2003
TECH CENTER 1600/2900

Applicants : Anthony J. Cutie et al.
Serial No. : 09/702,263
Filed : October 31, 2000
For : **A CORE FORMULATION**
Group Art Unit : 1616
Examiner : Robert M. DeWitty

745 Fifth Avenue
New York, New York 10151

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on December 30, 2002.

Jerome Rosenstock, Reg. No. 25,456

Name of Applicant, Assignee or Registered Representative

Jerome Rosenstock
Signature

December 30, 2002

Date of Signature

TERMINAL DISCLAIMER

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

This is in response to the Office Action mailed on December 18, 2002.

Enclosed herewith is a check in the amount of \$110.00 in payment of the required fee for Terminal Disclaimer. The Commissioner is hereby authorized to charge any additional fee or credit any overpayment therein to Deposit Account No. 50-0320.

01/07/2003 AOSHAN1 00000087 09702263

01 FC:1814

110.00 OP

00104383

I, JEROME ROSENSTOCK, ESQ. REG. NO. 25,456, declare that I am an attorney of record in this application and that I am authorized to execute terminal disclaimers on behalf of AEROPHARM TECHNOLOGY, INCORPORATED ("ATI");

That ATI is the assignee of the entire right, title and interest in, to and under U.S. Patent application Serial No. 09/702,263, filed October 31, 2000 (the "above captioned application), by virtue of the assignment from the inventors to ATI which was recorded at the U.S. Patent and Trademark Office on October 31, 2000, at Reel 011270, Frame 0079;

That ATI is the assignee of the entire right, title and interest in, to and under U.S. Patent No. 6,403,121 B1 ("PATENT"), issued June 11, 2002 from U.S. application Serial No. 09/783,783, filed February 15, 2001 by virtue of the assignment from the inventors to ATI which was recorded at the U.S. Patent and Trademark Office on May 10, 2001 at Reel 011792, Frame 0560.

That ATI hereby disclaims the terminal part of any patent granted on the above-captioned application which would extend beyond the expiration date of the full statutory term of the PATENT, including any extension thereof; and,

That ATI hereby agrees that any patent so granted on the above-captioned application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to the PATENT, this agreement to run with any patent granted on the above-captioned application and to be binding upon the grantee, its successors or assigns.

No terminal part of any patent granted on the above-captioned application is disclaimed prior to the full statutory term (including any extension thereof) of the PATENT in the event that the PATENT earlier expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or is terminally disclaimed;

under 37 C.F.R. 1.321(a), has all claims canceled by a reexamination certificate, or is otherwise terminated prior to expiration of its full statutory term (including any extension thereof), except for the separation of legal title stated above.

In accordance with 37 C.F.R. § 3.73, the undersigned states that evidentiary documents evidencing the chain of title from the original owner to the assignee have been reviewed and certifies that, to the best of his knowledge and belief, title is in the assignee seeking to take the action.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


Accordingly, it is respectfully requested that no double patenting rejection be issued.

Moreover, in view of the contemporaneous-filed Response, and the herein Terminal Disclaimer, it is respectfully submitted that the present application is in condition for allowance and that claims 1 through 17 be allowed.

Therefore, reconsideration and withdrawal of all rejections of and objections to
the application and prompt issuance of a Notice of Allowance are respectfully requested

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By 
Jerome Rosenstock
Registration No. 25,456
745 Fifth Avenue
New York, New York 10151
(212) 588-0800